

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

WP(C).No. 13723 of 2005(H)

PETITIONER:

N.NATARAJAN S/O. LATE K.S.NARAYANA IYER,
THEKKE PUTHIYADATH MADOM, KOOVAPPADY KARA,
KOOVAPADY VILLAGE.

BY ADV. SRI.T.R. RAJAN.

RESPONDENTS:

1. DISTRICT EDUCATIONAL OFFICER,
KOTHAMANGALAM.
2. T.JAWAHAR, RUGMANI MANDIRAM,
G.K.PILLAI ROAD, PERUMBAVOOR KARA,
PERUMBAVOOR VILLAGE.
3. SMT.MANGALAMBAL, THEKKEPUDIYADATHU MADOM
KOOVAPPADY.
- *4. K.SADANANDAN
PRESIDENT, CHERANELLUR DHARMAPARIPALANA SABHA,
REG.NO.64/1098, CHERANELLUR, EDAVA P.O.,
ERNAKULAM DT.
- *5. K.V.RAMESAN,
VICE PRESIDENT, CHERANELLUR DHARMA PARIPALANA SABHA,
REG.NO.64/1098, CHERANELLUR, EDAVA P.O.,
ERNAKULAM DT.
- * ADDL R4 AND R5 IMPEADED IN THEIR CAPACITY AS OFFICE BEARERS OF
CHERANELLUR DHARMA PARIPALANA SABHA AS PER ORDER DTD. 24.5.2005 IN
I.A.7022/05.

BY ADV. SRI.C.P.SUDHAKARA PRASAD (SR.) FOR R4 AND R5.
SRI.ELVIN PETER P.J.
SRI.N.SUKUMARAN FOR R2.
SRI.S.SHYAM
SRI.N.K.KARNIS
SRI.RAJESH VIJAYAN FOR R3.
SMT.DIVYA VISWAM
GOVERNMENT PLEADER SRI. A.J. VARGHESE. FOR R1.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/07/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE APPLICATION FOR CHANGE OF MANAGEMENT SUBMITTED ON 31.3.2005 BEFORE THE 1ST RESPONDENT BY THE PETITIONER.
- EXT.P2: COPY OF THE REPRESENTATION DTD. 3.4.2005 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- EXT.P3: COPY OF THE JUDGMENT DTD. 12.12.2006 OF THIS HON'BLE COURT IN W.P. (C).NO. 31372/06.

RESPONDENT'S EXHIBITS:

- EXT.R1(a): COPY OF THE REPORT OF THE ASSISTANT ENGINEER, PUBLIC WORKS DEPARTMENT.
- EXT.R2(a): COPY OF THE PLAINT IN O.S.NO. 120/2005 ON THE FILE OF THE MUNSIF'S COURT, PERUMBAVOOR DTD. 23.3.2005.
- EXT.R2(b): COPY OF THE COUNTER AFFIDAVIT FILED BY THE 2ND RESPONDENT IN I.A.NO. 837/2005 IN O.S.120/05 ON THE FILE OF THE MUNSIF'S COURT, PERUMBAVOOR DTD . 6.4.2005.
- EXT.R4(a): COPY OF PLAINT O.S.NO. 120/2005, FILED BY THE PETITIONER BEFORE THE MUNSIF COURT, PERUMBAVOOR.
- EXT.R4(b): COPY OF CONSTITUTION OF THE SCHOOL APPROVED BY ORDER DTD. 17.1.1974.
- EXT.R4(c): COPY OF THE ORDER DTD. 1.2.2002 ISSUED BY THE D.E.O. KOTHAMANGALAM.
- EXT.R4(d): COPY OF COMMUNICATION DTD. 19.3.2005 SENT BY M/S K. MANGALAMBAL AND T. JAWAHAR TO THE D.E.O. KOTHAMANGALAM.

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// TRUE COPY //

P.A. TO JUDGE.

T.R.RAMACHANDRAN NAIR, J.

W.P.(C).NO.14112 OF 2005 (E)

Dated this the 28th day of February,2007.

J U D G M E N T

The Writ Petitioner is the Manager of Vrindavan High School at Vlanthankara in Neyyattinkara Taluk. The said High School is an aided school. The petitioners case is that there is a nearby U.P.School namely, St.Peters U.P.School who sought for an upgradation which is subject matter of Ext.P1 judgment dated 10.10.1984. It is stated that going by the above judgment the claim of the said school for upgradation did not succeed. It is also stated that the 4th respondent has not initiated any steps by way of publishing notification to open any new High School or to upgrade any existing U.P.School in the Taluk. The petitioner's complaint apparently is that first and second respondents have been admitting pupils in an unaided High School, inspite of the fact that no permission has been granted by the department to start or maintain such a School.

2. Fifth respondent has filed a counter affidavit denying the averment that he is the Manager of the said High School. According to the 5th respondent the apprehension of the petitioner that St.Peters U.P.School is being upgraded as High School without complying with the statutory provisions contained in Rule 2(b) of Chapter V of KER,

has absolutely no basis. It is also contended that Government has issued G.O.(P)No.69/04/G.Edn. dated 20.2.2004, according sanction to open/upgrade/recognise unaided schools in the academic year 2003-2004 on certain conditions.

3. The official respondents 5 and 6 have filed a counter affidavit. According to the averments therein the District Educational Officer had conducted some enquiry into the functioning of unrecognised schools based on a complaint submitted by the teachers of the petitioner's school and a report has been received. It is stated that the enquiry revealed that there are only two High Schools and three U.P.Schools functioning around a radius of three kilometers and there is an unaided High School by name Our Lady of Assumption, Vlanthankara, functioning in the locality without obtaining recognition from the Government. It is also submitted that steps for upgradation of St.Peters U.P.School as High School has not yet been fulfilled.

4. In view of the fact that the departmental authorities have made an enquiry into the complaint raised by the petitioner, the teachers and others associated with the petitioner's school, it is up to the departmental authorities to take follow up actions in this matter. The issue whether the said school can be allowed to function or whether they are violating any rules is a matter for the third and

fourth respondents to consider, and a decision in regard to the said matter will be taken after hearing the petitioner and other affected parties including the management of the Our Lady Of Assumption High School or any other interested parties, within a period of two months from today. The Writ Petition is disposed of accordingly.

T.R.RAMACHANDRAN NAIR, JUDGE

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